

## MINUTES

Regular Meeting  
City Hall Council Chamber

March 3, 2014  
Monday, 6:00 p.m.

**Present:** Mayor O. Stanhope Anthony III, presiding; Council Members Eric Hendrick, David W. White, Jeanette D. Patterson, Dennis C. Bailey, Ben Kittrell, Dicky Amaya; City Manager Rick Howell, City Clerk Bernadette A. Parduski, NCCMC, MMC, City Attorney Robert W. (Bob) Yelton, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Utilities Brad R. Cornwell, PLS, EI, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, Director of Public Works Daniel C. (Danny) Darst, Jr., Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP; and media representatives

Mayor Anthony called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor gave the invocation and Mr. Hendrick led the *Pledge of Allegiance*.

**A. Approval of agenda:**

- 1) Motion to adopt the proposed agenda

**ACTION TAKEN:** Upon a motion made by Mr. White, City Council voted unanimously to approve the agenda as presented.

**B. Special Presentations:**

- 1) Presentation of the United Way 2013 Spirit of North Carolina Award to the City of Shelby for Campaign Excellence – 2013 Shelby United Way Campaign Co-chairs: Lisa Wassén, Safety and Risk Management Coordinator, and Sam Clark, Customer Service Manager

Mr. Howell introduced Shelby's 2013 United Way Campaign Co-chairs: Lisa Wassén, Safety and Risk Management Coordinator, and Sam Clark, Customer Service Manager.

Mrs. Wassén provided the total of the 2013 United Way contributions amounting to \$61,154, which represents an increase of \$11,816 raised by City employees in 2012. She stated this demonstrates the extraordinary generosity of the employees in 2013 and provides proof of a history of giving.

Next, Mr. Clark stated the City of Shelby was recently honored with a Spirit of North Carolina Award for Campaign Excellence. The awards are sponsored annually by the United Way of North Carolina to provide statewide recognition for outstanding commitment and support to communities through local United Way involvement. The criteria included leadership, volunteerism, employee participation and giving levels, year-round education, and incentive programs.

Mr. Clark recognized Bill Hooker, Executive Director, and Leslie Cobb, Vice President of Resource Development, for the United Way of Cleveland County in attendance.

On behalf of the generous employees of the City of Shelby, Mrs. Wassén and Mr. Clark presented Mayor Anthony with the plaque awarding the United Way 2013 Spirit of North Carolina for Campaign Excellence to the City of Shelby.

## 2) Curbside Recycling Program Annual Report – Danny Darst, Director of Public Works

Mr. Darst began his presentation with a recent ad, which the City had printed in local publications, congratulating the citizens of Shelby for increasing the overall tonnage diverted from the landfill from 728 tons in 2012 to 898 tons in 2013 and expressing appreciation to Republic Services for their partnership in the recycling program.

Next, Mr. Darst demonstrated the Garbage Collection and Recycle Schedule Viewer tool available on the City's website as well as the Recycle Shelby website, utilizing an interactive map link for customers to search for garbage and recycling collection days.

By means of a Monthly Curbside Recycling Tonnage Report, Mr. Darst noted in the second year of this program and with 70 percent of the City's customer base participating, the City has increased recycling by 20 percent since 2012, diverting almost 900 tons of materials from the waste stream.

Mr. Darst then discussed the goals for Recycle Shelby in 2014:

- To set a goal for monthly increase at 5 percent
- To develop a GIS map for low participation neighborhoods for a target and educate approach
- To create information on what can and cannot be recycled
- To distribute information to targeted areas based on GIS mapping

- To set up Recycle Shelby booth at events including Alive After Five and all City-sponsored events
- To revisit local grade schools with recycling information for parents
- To make onsite visits with commercial customers to increase participation, currently at 26 percent

Discussion included the distinction between recyclables and non-recyclables, contamination of loads, the savings on landfill tipping fees, and the length of the existing contract.

Council received the information and took no action.

#### C. Consent Agenda:

**ACTION TAKEN:** Mayor Anthony presented the consent agenda. Mr. Amaya made a motion to approve the consent agenda and each item as presented. The consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of February 17, 2014
- 2) Approval of Special Event Permit Application:
  - a. 2014 Cleveland County March for Babies, requested date: October 4, 2014
- 3) Approval of a resolution honoring Everette Craig Carpenter on the occasion of his retirement from employment with the City of Shelby: Resolution No. 8-2014
- 4) Approval of a resolution adopting a Community Development Block Grant (CDBG) Loan Subordination Policy: Resolution No. 9-2014
- 5) Adoption of an ordinance authorizing demolition of a dwelling located at 812 Logan Street: Ordinance No. 10-2014
- 6) Adoption of an ordinance authorizing demolition of a dwelling located at 814 Logan Street: Ordinance No. 11-2014
- 7) Approval of a resolution honoring the life and memory of Lester Davis (Les) Roark: Resolution No. 10-2014

**END CONSENT AGENDA**

#### D. Unfinished Business:

**1) Consideration of appointments to City boards and commissions:**

**a. Alcoholic Beverage Control Board**

**Mrs. Parduski reported the terms of two incumbents, Gerald Weathers and Freddie Harrill, Sr., conclude April 2014. Both incumbents wish to continue their service.**

**Applications on file in the Clerk's Office include:**

- **Durwin Briscoe**
- **Andrew Hopper, Sr.**
- **Mike Royster – Mr. Royster withdrew his name as a courtesy to the incumbents.**
- **Talmadge Strickland**

**Mr. Amaya nominated Gerald Weathers and Freddie Harrill, Sr.**

**Mr. Bailey nominated Andrew Hopper.**

**ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to close the nominations.**

**Council cast the following votes:**

**Gerald Weathers received a unanimous vote.**

**Freddie Harrill, Sr. received two affirmative votes (White and Amaya).**

**Andrew Hopper, Sr. received four affirmative votes (Hendrick, Patterson, Bailey, and Kittrell).**

**By consensus, Council reappointed Gerald Weathers and appointed Andrew Hopper, Sr. to new terms concluding April 2017.**

**b. Isothermal Planning and Development Commission (IPDC) Board of Directors**

**Mrs. Parduski reported IPDC Executive Director, James Edwards, informed Mayor Anthony that Mr. Amaya's term on the Board of Directors will conclude April 2014.**

**Mr. Amaya does not wish to continue his service on this board.**

After discussion and by consensus, Council continued the nominating process.

2) **Consideration of a resolution awarding the construction contract for the City of Shelby Farmers Market Shade Pavilion: Resolution No. 11-2014**

Mr. Howell introduced Resolution No. 11-2014 for Council's consideration. As background information, Mr. Howell reminded Council the City of Shelby in partnership with Cleveland County and the Foothills Farmers Market have agreed to proceed with the construction of an open air shade pavilion building on the City owned parking lot at West Marion and North Morgan Streets with the intent of hosting the Foothills Farmers Market and providing a community event facility for the Uptown area. After numerous funding setbacks, the City of Shelby, Cleveland County, US Department of Agriculture Rural Development (USDA RD), Foothills Farmers Market, and a host of public and private contributors have provided funding sufficient for the development of this project. Council revised the budget for the project at its last meeting and received bids last month.

Based on the bids received on February 11, 2014, Mr. Howell recommended awarding the base bid to Greene Corporation of Shelby, North Carolina for the general construction of the Foothills Farmers Market Shade Pavilion. Mr. Howell further stated the award would be contingent upon approval of the bids by the USDA RD office. Since USDA RD is providing some grant funding for this project, the City must comply with a federal review and approval requirements prior to proceeding. Contract documents will be prepared for execution when approval is received from USDA RD.

Mr. Howell added Phase II of this project will include the construction of rest room facilities and basic office and storage space for the market. A grant funding decision is pending in that regard.

To conclude, Mr. Howell said the pavilion project could be completed in four to six months, with construction to begin in ten to twelve weeks.

**ACTION TAKEN:** Upon a motion by Mr. White, City Council voted unanimously to approve and adopt Resolution No. 11-2014 entitled, "A RESOLUTION AWARDED THE CONSTRUCTION CONTRACT FOR THE CITY OF SHELBY FARMERS MARKET SHADE PAVILION".

**E. New Business:**

- 1) **Consideration of a resolution of intent to consider an ordinance amending the Charter of the City of Shelby to change the election method for the Mayor and the Members of the City Council to non-partisan primary and election and setting the date for a public hearing thereon: Resolution No. 12-2014**

Mayor Anthony introduced the subject matter as a previous Council retreat topic specifying a change in the City's municipal elections.

Next Mr. Yelton explained a North Carolina city's charter is an act of the North Carolina General Assembly, and normally only the General Assembly can amend one of its own acts. However, the charter provisions that may be amended by a city council or city voters are listed in General Statute 160A-101, the "charter change statute", and include an election method.

Mr. Yelton reviewed the City of Shelby's choices with respect to the method of election. The basic choice is between partisan elections, in which candidates run as the nominee of a political party, and nonpartisan elections, in which the ballot does not identify candidates by party. If a city, as in Shelby, wishes to use nonpartisan elections, it has three options:

- **Nonpartisan election and runoff – A candidate must receive a majority vote in order to be elected. If the highest vote-getter in the election does not receive a majority, the second-highest voter may call for a run-off election between the first and second-place finishers.**
- **Nonpartisan primary and election – A primary is held to reduce the field to two candidates per open seat. In a district election, if no more than two candidates file for a seat, no primary is held for that seat.**
- **Nonpartisan plurality – The candidate or candidates receiving the most votes is declared the winner or winners, even if one or more of them does not in fact get a majority of votes cast. The most votes wins.**

Mr. Yelton further stated a council that wishes to propose and adopt a charter amendment under the charter change statute must follow these steps which are set out in General Statute 160A-102:

- **Adopt resolution of intent – The first step is to adopt a resolution of intent, describing the change or changes proposed by council.**
- **Call a public hearing – At the same time it adopts the resolution of intent, the council must call a public hearing, which must be held within 45 days after adoption of the resolution of intent.**

- Hold the public hearing – At the appointed time, the council must hold the public hearing.
- Adopt the ordinance – After the hearing, but no earlier than the council’s next regular meeting, the council may adopt an ordinance amending the charter.

Mr. Yelton summarized that currently the City’s mayoral and council races are voted on in October instead of November in a nonpartisan election and runoff race, meaning an election only happens on Election Day if a runoff is necessary. The proposed change would make the municipal race a nonpartisan primary and election. A primary would be held sometime in September and the election would be held on the traditional Election Day in November.

Mayor Anthony said changing Shelby’s election method and moving it to November to be held simultaneously with other elections could increase voter turnout and eliminate some of the confusion caused by the current process.

**ACTION TAKEN:** Upon a motion made by Mr. Bailey, City Council voted unanimously to approve and adopt Resolution No. 12-2014 entitled, “A RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF SHELBY TO CHANGE THE ELECTION METHOD FOR THE MAYOR AND THE MEMBERS OF THE CITY COUNCIL TO NON-PARTISAN PRIMARY AND ELECTION AND SETTING THE DATE FOR A PUBLIC HEARING THEREON”.

**F. City Manager’s Report:**

- 1) Mr. Howell updated Council with regard to the First Broad River Wastewater Treatment Plant Upgrades and Outfall Rehabilitation Project. At this time, the Wastewater Treatment Plant Upgrades Project is in the bidding process. Mr. Howell said there is some expectation bids will be higher based upon cost estimates provided by the engineering design firm’s projections. Staff will prepare evaluations and share the information with Council in the very near future.
- 2) With regard to the implementation and funding of the Phase II Stormwater Program, Mr. Howell stated a fee-based, self-supporting revenue recommendation is being developed as part of the upcoming budget process. As such, Council will see a separate Stormwater fund in this year’s budget proposal. The rationale behind the fee schedule, along with

compliance requirements, will be explained and become effective July 1, 2014.

- 3) With regard to the budget calendar for Fiscal Year 2014-2015, Mr. Howell stated he plans to deliver his recommended budget to Council on April 14, 2014 so the board can begin their considerations.

Due to the budget implications of health care as a cost driver, Mr. Howell informed Council the City has received its group medical insurance renewal from the current provider, MedCost, at a 30 percent increase. He stated the City will be searching for a new provider, obtaining quotes, taking those under consideration, and undergoing a plan review as part of the budget process.

- 4) Mr. Howell made the following announcements:

- The Gaston-Cleveland-Lincoln Metropolitan Planning Organization established a public comment and review period for the draft version of the 2040 Metropolitan Transportation Plan to be held on March 6, 2014 from 5:00 p.m. through 7:00 p.m. at Shelby City Hall Council Chamber
- Keep Shelby Beautiful has scheduled a community litter sweep on March 15, 2015 beginning at 9:00 a.m. on Cameron and Lily Streets
- The next Cleveland Association of Government Officials (CAGO) meeting will be held on March 20, 2014 at 6:30 p.m. and hosted by the Cleveland County Commissioners at the Earl Scruggs Center
- Shelby City Council's Retreat is set for March 7, 2014 at 8:00 a.m. at Shelby-Cleveland County Regional Airport

#### G. Council Announcements and Remarks:

- 1) Mayor Anthony reminded Council to attend the Cleveland County Chamber's Legislative Breakfast tomorrow, March 4, 2014, at 7:30 a.m. at the LeGrand Center.

The Mayor stated the performance evaluation of the City Clerk will be placed on the agenda for the meeting of March 17, 2014.

- 2) Mr. Amaya mentioned a Handbell Festival Concert was held on March 1, 2014 at the LeGrand Center with 37 church groups from the Western part of North Carolina participating and including hundreds of ringers.



- 3) **Mr. White commended City employees for their United Way recognition, the Spirit of North Carolina Award for Campaign Excellence.**
- 4) **Mr. Bailey reported on his attendance at the League's General Government Legislative Action Committee meeting today in Raleigh, North Carolina. The North Carolina League of Municipalities has been working with legislators for months on privilege license tax reform as the League membership selected this issue as one of its 2013 Municipal Advocacy Goals. The Revenue Laws Study Committee of the General Assembly is expected to consider a proposal that would limit the municipal privilege license tax to \$100 per business, while eliminating all caps and exemptions in the current privilege license law. The version of the draft legislation is entitled the Fair and Flat Local Business Tax. Mr. Bailey expressed his concerns about the restrictions it places on cities and towns and about the impact of the revenue loss caused by this bill.**

**Both Mayor Anthony and Mr. Bailey encouraged and stressed participation in the advocacy process by maintaining relationships with state legislators, having conversations with state decision makers, keeping track of important bills, understanding issues important to municipalities, and attending events to interact with legislators.**

#### **H. Closed Session:**

- 1) **To approve the Minutes and General Account of the Closed Session of November 4, 2013**
- 2) **To consult with the City Attorney in order to preserve the attorney-client privilege in the matter of Joseph D. Lovelace and Stony G. Yearwood versus City of Shelby pursuant to North Carolina General Statute 143-318.11(a) (3)**

**ACTION TAKEN: Mr. White made a motion to enter into a closed session to preserve the attorney-client privilege pursuant to the appropriate North Carolina General Statute as cited. Council consulted with Mr. Yelton who advised the topics met the statutory requirement for a closed session. Mayor Anthony invited all Council members present, Mr. Yelton, Mr. Howell, and Mrs. Parduski to attend.**

**Council moved into closed session at 7:05 p.m.**

**ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to return to regular session.**

**I. Adjournment:**

**1) Motion to adjourn**

**ACTION TAKEN:** Upon a motion made by Mr. Amaya, City Council voted unanimously to adjourn the meeting at 7:23 p.m.

Respectfully submitted,

**Bernadette A. Parduski, NCCMC, MMC  
City Clerk**

**O. Stanhope Anthony III  
Mayor**

**Minutes of March 3, 2014**